

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

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JAY J. SCHINDLER,

Plaintiff,

vs.

Case No. 05-C-0705-C

MARSHFIELD CLINIC, et al.,

Madison, Wisconsin

July 27, 2006

Defendants.

9:40 a.m.

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TRANSCRIPT OF TELEPHONIC CONFERENCE
HELD BEFORE MAGISTRATE JUDGE STEPHEN L. CROCKER

TELEPHONIC APPEARANCES:

For the Plaintiff: Kamensky, Rubinstein, Hochman
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1 MR. SCHOTT: Have the tape recorder on if we're going
2 to put something on the record.

3 THE COURT: Okay. Well, I just turned it on, it's
4 that simple. And let me indicate that this is Schindler versus
5 Marshfield Clinic, et al. The case number is 05-C-705-C.
6 Counsel, just for the record then since we are of record, why
7 don't you repeat your appearances, please. On behalf of the
8 plaintiff.

9 MR. BROMAN: Michael Broman.

10 THE COURT: All right, good morning. And on behalf
11 of Marshfield and the individual doctor defendants.

12 MR. SCHOTT: This is Don Schott, Your Honor.

13 THE COURT: All right, which of you would like to
14 commemorate your agreement on the record?

15 MR. SCHOTT: Well, this is Don Schott. I'll go first
16 and obviously Mr. Broman will let me know if I've misstated
17 anything here, but our agreement is as follows. There are three
18 pending motions before you involving our respective clients,
19 Dr. Schindler and Marshfield Clinic defendants. That is the
20 motion for protective order by Marshfield Clinic defendants, the
21 motion to compel by Dr. Schindler against Marshfield Clinic, and
22 a motion for enlargement of time with respect to responding to
23 the motion for partial summary judgment that has been filed by
24 Marshfield Clinic, that that motion for enlargement of time was
25 filed by Dr. Schindler.

1 And what we've agreed to is the following, that all three
2 of those motions can be put on hold. There's no need for you to
3 decide any of the three of those until after Judge Crabb has
4 decided the partial summary judgment motion. We've also agreed
5 to modify the briefing schedule so that the response brief of
6 Dr. Schindler which is currently due tomorrow I believe is due
7 on August 14th and our Marshfield Clinic defendants' reply brief
8 is due 10 days after that, August 24th. And we all agreed --

9 THE COURT: Okay.

10 MR. SCHOTT: And we also agreed that when
11 Dr. Schindler responds on the 24th he will not be making an
12 argument under Rule 56(f) that he cannot respond at this point
13 in time because of the need for additional discovery,
14 particularly that discovery that is related to the discovery
15 motions that we're putting on hold.

16 THE COURT: All right. Mr. Broman, is that in fact
17 the agreement that you've reached?

18 MR. BROMAN: Yes, that is. I mean, we've agreed on a
19 couple of other stipulations but I don't think at this point in
20 time we probably need to make those as a matter of record. Don,
21 what do you think?

22 MR. SCHOTT: I don't know that we do. I mean --

23 MR. BROMAN: I mean, we stipulated --

24 MR. SCHOTT: I can briefly say --

25 MR. BROMAN: I'm sorry.

1 MR. SCHOTT: I can briefly say that I had sent
2 Mr. Broman an email earlier this week with respect to some
3 stipulations regarding Dr. Ruggles and a memo that Dr. Ruggles
4 prepared and we will stipulate to that in terms of a formal
5 stipulation. So Mr. --

6 THE COURT: Sure. Well, and I'll --

7 MR. BROMAN: And we've also stipulated that you're
8 going to give me a list of documents you do not have that have
9 been requested.

10 MR. SCHOTT: Correct.

11 MR. BROMAN: And that with respect to I think that --
12 the damage discovery interrogatory, that that doesn't -- also
13 doesn't have to be responded to until after we get a ruling on
14 the summary judgment.

15 MR. SCHOTT: That's correct.

16 MR. BROMAN: Yeah.

17 THE COURT: Okay. Well, this is all of record. I
18 will direct the Clerk's Office to get a transcript prepared.
19 Frankly, I don't think it will be necessary. I think you're all
20 going to honor the agreement in any event, but at least then
21 we've got a piece of paper in the file. And your timing is
22 perfect. I had this on my desk, I started reviewing it last
23 night and you've just saved me about six hours of work. So,
24 thank you both.

25 MR. BROMAN: That's why we were hoping to get in touch

1 with you this morning.

2 THE COURT: Well, I'm glad I took your call. You also
3 both may have been contacted by the Clerk's Office because in my
4 cursory review of the submissions last night it at least
5 appeared to me that there might have been some sealed documents
6 e-filed, which of course means those documents are available to
7 the public. And our docket number is 69. I don't have your
8 docket pulled up right now but they would have been Exhibits B,
9 D and N, and maybe O through R, and I think they were submitted
10 by the plaintiff. And some of them said confidential on top and
11 at least one of them said sealed.

12 MR. BROMAN: Okay.

13 THE COURT: So what I'd like is for you just to
14 double-check those because certainly you're entitled to submit
15 them to the Court, but if they should still be sealed, if they
16 haven't been made public or they're subject to your protective
17 order, then you need to let us know and we'll strike them from
18 the e-file and you'll just get -- you can send us hard copies
19 which we will then put in the sealed part of the folder.

20 MR. BROMAN: Okay.

21 THE COURT: And is that enough information for you to
22 find them?

23 MR. BROMAN: Yeah. Yeah.

24 THE COURT: Okay. And again, I don't know that but
25 when I saw that I just wanted to follow up with both sides.

1 MR. BROMAN: Yeah. I will have Mike Brown follow up
2 with your clerk --

3 THE COURT: Okay.

4 MR. BROMAN: -- on Monday.

5 THE COURT: That would be fine. Just let us know what
6 we need to do and we will make it happen.

7 MR. BROMAN: That's wonderful.

8 THE COURT: Okay. Well, I won't prolong the joy.

9 Anything else today on behalf of the plaintiff?

10 MR. BROMAN: No, we're fine.

11 THE COURT: Great. Anything else today on behalf of
12 the defendants?

13 MR. SCHOTT: No, Your Honor. Thank you.

14 THE COURT: Excellent. Well, thank you both and have
15 good days.

16 MR. BROMAN: You, too.

17 MR. SCHOTT: Bye now.

18 (Proceedings concluded at 9:45 a.m.)
19
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21 *I certify that the foregoing is a correct transcript from the*
22 *electronic sound recording of the proceedings in the above-*
23 *entitled matter.*

24 _____
25 *Susan Barsness*
Certified Transcriptionist

8/23/06
Date